

Message Text

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ACTION SNM-02

INFO OCT-01 ARA-10 IO-13 ISO-00 SS-15 AGRE-00 DODE-00

HEW-06 AID-05 MED-03 DEAE-00 CIAE-00 INR-07

JUSE-00 NSAE-00 TRSE-00 USIA-15 NSC-05 OES-06

OMB-01 L-03 H-02 /094 W

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC PRIORITY 1094

USMISSION GENEVA PRIORITY

ALL USCONS MEXICO (BY POUCH)

UNCLAS MEXICO 03726

EO 11652: N/A

TAGS: SNAR, MX

SUBJECT: CONGRESSIONAL HEARINGS ON DECRIMINILIZATION OF
MARIHUANA

REF: STATE 57055

1. MEXICAN SANITARY CODE PLACES MARIHUANA IN SAME CATE-
GORY AS OPIUM, HEROIN AND COCAINE.

2. MEXICAN PENAL CODE, WHICH SPECIFIES PENALTIES FOR
VIOLATIONS OF SANITARY CODE, INCLUDES FOLLOWING PROVI-
SIONS:

(A) FOR SOWING, CULTIVATING OR HARVESTING MARIHUANA:
TWO TO NINE YEARS AND FINE OF 1,000 TO 10,000 PESOS.

(B) FOR FIRST-TIME POSSESSION "IN SUCH QUANTITY AS IS
DESTINED FOR PERSONAL AND IMMEDIATE USE" BY A PERSON
"WHO IS NOT ADDICTED TO MARIHUANA": SIX MONTHS TO THREE
YEARS AND FINE OF UP TO 5,000 PESOS.

(C) FOR FIRST-TIME POSSESSION "IN SUCH QUANTITY AS IS
DESTINED FOR PERSONAL AND "IMMEDIATE USE" BY A PERSON
"WHO IS NOT ADDICTED TO MARIHUANA" WHO ALSO GIVES RPT
GIVES MARIHUANA TO ANOTHER PERSON FOR THE LATTER'S OWN
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AND IMMEDIATE CONSUMPTION: TWO TO SIX YEARS AND FINE OF
1,000 TO 10,000 PESOS.

(D) FOR IMPORTATION OR EXPORTATION OF MARIHUANA: SEVEN TO
FIFTEEN YEARS AND FINE OF 5,000 TO 50,000 PESOS.

(E) FOR TRAFFICKING IN MARIHUANA OR FINANCING SUCH TRAF-
FIC: FIVE YEARS THREE MONTHS TO TWELVE YEARS AND
FINE OF 5,000 TO 50,000 PESOS.

(F) FOR ENCOURAGING OR ASSISTING ANOTHER PERSON TO CONSUME MARIHUANA: THREE TO TWELVE YEARS AND FINE OF 3,000 TO 30,000 PESOS. IF THE PERSON ENCOURAGED IS UNDER EIGHTEEN, OTHERWISE INCOMPETENT, OR UNDER THE AUTHORITY OF THE VIOLATOR: AN ADDITIONAL FIVE YEARS THREE MONTHS TO TWELVE YEARS.

3. PENAL CODE ALSO PROVIDES: "THE ACQUISITION OR POSSESSION OF DRUGS OR PSYCHOTROPIC SUBSTANCES BY THOSE WHO HAVE THE HABIT OR NECESSITY TO CONSUME THEM IS NOT A CRIME, PROVIDING ALWAYS THAT THE AMOUNT INVOLVED IS THAT WHICH IS STRICTLY NECESSARY FOR THEIR OWN USE." SUCH PERSONS ARE, HOWEVER, SUBJECT TO MEDICAL TREATMENT AND/OR CONFINEMENT IN A HEALTH FACILITY.

4. PENAL CODE FURTHER PROVIDES THAT PAROLE WILL NOT BE GRANTED TO THOSE CONVICTED ON DRUG OFFENSES.

5. EMBASSY'S EXPERIENCE INDICATES THAT PROVISIONS ON TRAFFICKING, INCLUDING IMPORT AND EXPORT, ARE STRICTLY ENFORCED. PRACTICE VARIES WIDELY FOR INDIVIDUALS CAUGHT WITH RELATIVELY SMALL QUANTITIES OF MARIHUANA. WHILE RELATIVELY FEW AMERICANS ARRESTED HERE HAVE SUCCESSFULLY EMPLOYED ADDICT PROVISION TO ESCAPE JAIL, MANY HAVE BEEN LET OFF WITH A FINE AND DEPORTATION. ON THE OTHER HAND, A NUMBER HAVE BEEN DETAINED FOR MANY MONTHS BEFORE CHARGES AGAINST THEM WERE DROPPED. WE BELIEVE THE NUMBER OF AMERICANS ACTUALLY SENTENCED FOR POSSESSION OF SMALL AMOUNTS IS NEGLIGIBLE.

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6. FYI: ATTORNEY GENERAL'S OFFICE INFORMED EMBASSY THIS WEEK THAT IN CASES INVOLVING POSSESSION OF LESS THAN 100 GRAMS (SLIGHTLY OVER 3.5 OUNCES), IT INTENDS TO TURN ARRESTEES OVER TO EMBASSY OR NEAREST CONSULAR POST ON CONDITION THAT ARRESTEE DEPART COUNTRY IMMEDIATELY. THOMPSON

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